HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Friday, May 22, 2015
84th Legislature, Number 76
The House convenes at 10 a.m.
Part Two

Twenty-three bills are on the daily calendar for second-reading consideration today. The bills analyzed in Part Two of today's *Daily Floor Report* are listed on the following page.

The House will consider a Local, Consent, and Resolutions Calendar.

Alma Allen
Chairman
84(R) - 76

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Friday, May 22, 2015

84th Legislature, Number 76

Part 2

SUBJECT: Requiring 12-person juries in certain cases in county courts

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Smithee, Farrar, Clardy, Hernandez, Laubenberg, Schofield, Sheets, S. Thompson

1 nay — Raymond

SENATE VOTE: On final passage, April 15 — 29-2 (Hinojosa, Uresti)

WITNESSES: (*On House companion bill, HB 1122*)
For — Lee Parsley, Texans for Lawsuit Reform; (*Registered, but did not testify*: Thure Cannon, Texas Pipeline Association; Kelly Curbow, AT&T; Jon Fisher, Associated Builders and Contractors of Texas; Michael Garcia, Texas Medical Liability Trust; Charlene Heydinger, EOG Resources; Mike Hull, Texas Alliance for Patient Access; Kathleen Hunker, Texas Public Policy Foundation; Lisa Kaufman, Texas Civil Justice League; Kari King, USAA; Amanda Martin, Texas Association of Business; Samantha Omey, Exxon Mobil and all subsidiaries including XTO Energy; Bruce Scott, State Farm; Tom Sellers, ConocoPhillips; Stephanie Simpson, Texas Association of Manufacturers; Patrick Tarlton, Texas Chemical Council; Daniel Womack, The Dow Chemical Company Andrew Weber)

Against — Donald Lee, Texas Conference of Urban Counties

DIGEST: SB 824 would require 12-member juries for civil cases in statutory county courts in which the amount in controversy was $200,000 or more unless the parties agreed to a six-member jury. Procedures for drawing of jury panels and selection of jurors would conform to that of district courts in the same county.

This bill would take effect September 1, 2015 and would apply to trials commenced on or after that date.

SUPPORTERS SAY: SB 824 is necessary to align the number of jurors required in district

courts with the number of jurors in statutory county courts in cases in which the amount of controversy is $200,000 or more. It also would help to ensure more consistent awards to prevailing parties in large civil suits. Studies have shown that 12-person juries produce fewer very large or very small awards to prevailing parties than do smaller juries. This consistency provides greater predictability and uniformity in the judicial system. The disparity between district courts and county courts incentivizes forum shopping by defendants.

This bill would not have a significant fiscal impact. Fewer than 60 county courts in 19 counties have jurisdictional limits that would allow them to handle cases that were subject to this bill. The impact on the courts would be minimal because pay for jurors is only $6 for the first day and $40 for each subsequent day.

OPPONENTS SAY:

Six-person juries in county courts have been an efficient and low-cost way to resolve the high volume of cases before the courts. Increasing that number to 12 would complicate the process and increase taxpayer expenditures.

NOTES:

The House companion bill, HB 1122 by Clardy, was placed on the May 13 General State Calendar but was not considered.

SUBJECT: Providing court-appointed counsel for certain writs of habeas corpus

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Herrero, Moody, Leach, Shaheen, Simpson

0 nays

2 absent — Canales, Hunter

SENATE VOTE: On final passage, April 23 — 30-0

WITNESSES: (*On House companion bill, HB 1346*)
For — Alex Bunin, Harris County Public Defender; Elizabeth Henneke, Texas Criminal Justice Coalition; (*Registered, but did not testify:* Kristin Etter, Texas Criminal Defense Lawyers Association; Scott Henson, Texas Criminal Justice Coalition; Thomas Ratliff, Harris and Fort Bend County Criminal Lawyers Association; Charles Reed, Dallas County Commissioners Court; Matt Simpson, ACLU of Texas)

Against — None

On — Wesley Shackelford, Texas Indigent Defense Commission

BACKGROUND: Writs of habeas corpus are a way to challenge the constitutionality of a criminal conviction or the process that resulted in a conviction or sentence. Code of Criminal Procedure, art. 11.071 provides for court-appointed counsel to assist with applications for writs of habeas corpus for indigent defendants who desire counsel and have been sentenced to death. Art. 11.072 gives the judge discretion whether to provide court-appointed counsel to assist with applications for writs of habeas corpus for defendants sentenced to probation.

Code of Criminal Procedure, art. 1.051 defines "indigent" as someone who is not financially able to employ counsel, and art. 26.04(m) lists factors that courts may consider when determining indigency, including income, assets, outstanding obligations, dependents, and spousal income.

Under Code of Criminal Procedure, art. 26.05, attorneys appointed to represent criminal defendants receive compensation based on the time and labor required of them, the complexity of the case, and the experience and ability of appointed counsel. Judges of county courts, statutory county courts, and district courts are required to adopt fee schedules for payments to court-appointed attorneys.

DIGEST:

SB 662 would require courts to appoint attorneys to represent indigent defendants who sought relief on writs of habeas corpus from convictions that imposed penalties other than death or that ordered probation if the state represented to the convicting court that the defendant:

- was not guilty;
- was guilty of only a lesser offense; or
- was convicted or sentenced under a law that had been found unconstitutional by the court of criminal appeals or the U.S. Supreme Court.

Attorneys could be appointed to represent defendants in the process of filing writs of habeas corpus or in proceedings based on the applications for writs. Attorneys appointed under this bill would be compensated at the same rate as attorneys appointed to represent criminal defendants at trial.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply to a writ application regardless of when the offense for which the applicant was in custody was committed.

SUPPORTERS SAY:

SB 662 would expedite the release of defendants for certain cases in which a district attorney agreed that a defendant should be released because the defendant was innocent, was guilty of a lesser offense, or the law under which the defendant was convicted had been declared void. The cost savings from expedited release could negate the additional cost of appointing counsel.

This bill would protect constitutional rights to a fair trial and defense

proceedings for indigent defendants. Although judges currently have discretion whether to appoint counsel in these cases, some judges choose not to appoint counsel. The bill would cover certain limited circumstances in which appointment of counsel should be mandatory. When a defendant is found to be innocent or guilty of a lesser offense, he or she should have the opportunity to have the convictions overturned or the sentence reduced, regardless of whether the defendant could afford a lawyer.

OPPONENTS SAY:

SB 662 would remove a judge's discretion on whether to appoint counsel for writs of habeas corpus for indigent defendants. By automatically appointing an attorney, the bill might deprive the defendant of a chance to appear in front of a judge until later in the process than if the defendant appeared to have counsel appointed. Appearing in front of a judge earlier would provide an earlier opportunity for a judge to dismiss the case if necessary. Shortcutting this important process might harm defendants who had been found innocent or guilty of a lesser included offense.

This bill would be unnecessary because judges almost always grant the appointment of the attorney in those few cases involving eligible defendants in writ of habeas corpus cases for non-capital offenses. A new mandate to appoint counsel for all of these cases should not be imposed because of isolated incidents. SB 662 also could be considered an unfunded mandate on counties that would require judges to appoint counsel in all these habeas cases without additional funds.

NOTES:

The House companion bill, HB 1346 by Alonzo, was passed by the House on May 12 and referred to the Senate Administration Committee on May 19.

SUBJECT: Aligning license expiration dates for insurance agents and adjusters

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Frullo, Muñoz, G. Bonnen, Meyer, Paul, Sheets, Vo, Workman

0 nays

1 absent — Guerra

SENATE VOTE: On final passage, April 9 — 31-0, on local and uncontested calendar

WITNESSES: (*On House companion bill, HB 1947*)
For — Jason Talley, NAIFA Texas; (*Registered, but did not testify*: Thomas Ratliff, American Insurance Association; Lee Loftis, Independent Insurance Agent of Texas; Paul Martin, National Association of Mutual Insurance Companies; Joe Woods, Property Casualty Insurers Association of America; Jay Thompson, Prudential, TALHI, Afact; Lee Manross, Texas Association of Health Underwriters; Jennifer Cawley, Texas Association of Life and Health Insurers; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; Greg Hooser, Texas Surplus Lines Association; Robert (Bo) Gilbert, USAA)

Against — None

On — (*Registered, but did not testify*: Jamie Walker, Texas Department of Insurance)

BACKGROUND: Insurance Code, ch. 4001 governs agent licensing in general. Sec. 4001.003 defines a "person" to mean an individual, partnership, corporation, or depository institution.

Insurance Code, ch. 4102 governs public insurance adjusters. Sec. 4102.001 defines a "person" to include an individual, firm, company, association, organization, partnership, limited liability company, or corporation.

Insurance Code, ch. 4003 governs insurance license expiration and renewal, and Insurance Code, ch. 981 governs surplus lines insurance.

DIGEST:

SB 844 would require licenses issued by the Texas Department of Insurance (TDI) for insurance agents, surplus lines insurance agents, and insurance adjusters to use the same expiration schedule.

Expiration dates. Under the bill, a license issued by TDI and not suspended or revoked by the TDI commissioner would expire on the second anniversary of the date the license was issued to or renewed by a person that was not an individual.

For individual license holders, the bill would set licenses to expire on the holder's birthday. Licenses issued or renewed in an even-numbered year would expire on the license holder's birthday each even-numbered year. Licenses issued or renewed in an odd-numbered year would expire on the license holder's birthday each odd-numbered year. If a person held more than one license, all licenses would expire on the earliest expiration date of the licenses held. Thereafter, all licenses would expire according to the individual license holder's birth date.

License application fees. The bill would specify that license fees related to insurance licensing for surplus lines agents, insurance agents, and insurance adjusters were license application fees. The bill would require an applicant for a license renewal to remit the application fee before the expiration of the license being renewed. Expiration and renewal of a license would be governed by Insurance Code, ch. 4003 as amended by the bill, in addition to rules adopted by the commissioner and any applicable provision of the bill or another Texas insurance law.

Prorating fees. The bill would specify that the TDI commissioner could not prorate the initial application fee for a license based on the expiration period of the license.

Continuing education requirements. The bill would not change the continuing education requirement for a license issued or renewed on or after the bill's effective date. The bill would specify that a license holder could not be required to complete additional continuing education hours

for a license that the bill would allow to be extended beyond its original expiration date.

The bill would take effect January 1, 2016, and would apply only to a license for surplus lines agents, insurance agents, and insurance adjusters issued or renewed on or after that date. Each license held on the effective date by a non-individual would expire on the expiration date of the license with the longest remaining term. Each license issued to an individual would expire or could be extended to expire on the individual's birthday in the year after the expiration date of the license with the longest remaining term. If an existing license was extended, TDI could not charge an additional fee or require a renewal application before the renewal date established by the bill.

SUPPORTERS SAY:

SB 844 would streamline licensing requirements for insurance agents, insurance adjusters, and surplus lines insurance agents, making it easier for license holders to renew their licenses on time and reducing the administrative burden on the Texas Department of Insurance (TDI).

TDI recently has experienced an increase in insurance agent and adjuster license requests, which has strained the agency's resources. The bill would streamline administration of these requests, reducing the time it would take for the agency to handle licensing. Many agents and adjusters also hold more than one insurance license, and current laws make it difficult for these individuals to keep track of their licenses' separate renewal dates. By setting a common renewal date for these licenses, the bill would ensure that agents did not forget to renew their licenses, which would have the additional benefit of protecting consumers using insurance services.

Aligning agent and adjuster license renewal dates for the same date every two years also was a recommendation by TDI in its biennial report to the 84th Legislature. The bill would implement this recommendation. To align the expiration dates for these licenses, it is unavoidable that all of a license holder's licenses would have to expire on the same date.

OPPONENTS SAY:

Requiring certain license holders' licenses to expire according to the earliest expiration date of all licenses held could cause these license

holders to lose money they had already spent on fees for licenses that otherwise would have expired at a later date.

NOTES: The House companion bill, HB 1947 by Meyer, was passed by the House on April 27 and referred to the Senate Administration Committee on May 19.

SUBJECT: Requirements for maximum allowable cost lists regarding prescriptions

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Frullo, Muñoz, G. Bonnen, Meyer, Paul, Sheets, Vo, Workman

0 nays

1 absent — Guerra

SENATE VOTE: On final passage, April 9 — 31-0

WITNESSES: No public hearing

BACKGROUND: Insurance Code, sec. 4151.151 defines a "pharmacy benefit manager" as a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits.

Managed care organizations use pharmacy benefit managers (PBMs) to administer claims and reimbursements for participating pharmacies. PBMs reimburse pharmacies for certain prescription drugs according to a proprietary maximum allowable cost formula.

DIGEST: SB 332 would require a health benefit plan issuer or PBM to disclose to a pharmacist or pharmacy the sources of the pricing data used in formulating maximum allowable cost prices. The health benefit plan issuer or the PBM would have to disclose the pricing information on the date the issuer or the PBM entered into a contract with a pharmacist or pharmacy and, after the contract date, on the request of the pharmacist or pharmacy.

A health benefit plan issuer or PBM would review and update maximum allowable cost price information for each drug at least once every seven days to reflect any modification of maximum allowable cost pricing. A health benefit plan issuer or PBM would establish a process that would eliminate drugs in a timely manner from maximum allowable cost lists or modify maximum allowable cost prices to remain consistent with changes

in pricing data used to formulate maximum allowable cost prices and product availability.

The bill would require a health benefit plan issuer or PBM to provide to each pharmacist or pharmacy under contract a process for readily accessing the maximum allowable cost list that would apply to the pharmacist or pharmacy.

A maximum allowable cost list that applied to a pharmacist or pharmacy and was maintained by a health benefit plan issuer or PBM would be confidential. The bill would specify that this provision could not be construed to alter a health benefit plan issuer's or PBM's obligations to provide a contracted pharmacy or pharmacist with a process to readily access a maximum allowable cost list.

A health benefit plan issuer or pharmacy benefit manager would be prohibited from including a drug on a maximum allowable cost list unless the drug:

- had an "A" or "B" rating in the most recent version of the U.S. Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book, or was rated "NR" or "NA" or had a similar rating by a nationally recognized reference; and
- was generally available for purchase by pharmacists and pharmacies in Texas from a national or regional wholesaler and was not obsolete.

The bill would specify that, in formulating the maximum allowable cost price for a drug, a health benefit plan issuer or PBM could only use the price of that drug and any drug listed as therapeutically equivalent to that drug in the most recent version of the Food and Drug Administration's Orange Book. If a therapeutically equivalent generic drug was unavailable or had limited market presence, a health benefit plan issuer or PBM could place certain drugs on a maximum allowable cost list if the drug had a "B" rating in the Orange Book or an "NR" or "NA" rating or a similar rating by a nationally recognized reference.

A health benefit plan issuer or PBM would be required to include in their contracts with each pharmacist or pharmacy a procedure for the pharmacist or pharmacy to appeal a maximum allowable cost price of a drug within 10 days after the date a pharmacy benefit claim for the drug was made. The health benefit plan issuer or PBM would be required to respond to an appeal by a pharmacist or pharmacy within 10 days of receiving the appeal.

If the pharmacy or pharmacist's appeal was successful, the bill would require the health benefit plan issuer or PBM to:

- adjust the maximum allowable cost price that was subject to the appeal, effective on the date after the date the appeal was decided;
- apply the adjusted maximum allowable cost price to all similarly situated pharmacists and pharmacies as determined by the health benefit plan issuer or PBM; and
- allow the pharmacist or pharmacy that succeeded in the appeal to reverse and rebill the pharmacy benefit claim to which the appeal applied.

If the appeal was not successful, the bill would require the health benefit plan issuer or PBM to disclose to the pharmacist or pharmacy:

- each reason the appeal was denied; and
- the national drug code number from the national or regional wholesalers from which the drug would be generally available for purchase by pharmacists and pharmacies in Texas at the maximum allowable cost price that was the subject of the appeal.

The following types of plans would be excluded from the provisions of the bill regarding maximum allowable costs:

- Medicaid and Medicaid managed care plans;
- Children's Health Insurance Program (CHIP);
- the state's health insurance program for qualified alien (legal immigrant) children;
- state employee health insurance under the Employees Retirement

System;

- Texas school employees' health insurance under TRS-Care or TRS-ActiveCare; and
- state-provided health insurance for employees of the University of Texas System and the Texas A&M University System.

The bill would specify that it would be the intent of the Legislature that the requirements contained in the bill would apply to all health benefit plan issuers and PBMs except for those specifically excluded under the bill and unless otherwise prohibited by federal law.

The bill would specify that the provisions of the bill could not be waived, voided, or nullified by a contract and could not be construed to waive a legal remedy available to a pharmacist or a pharmacy. The commissioner of the Texas Department of Insurance would enforce the provisions of the bill

The bill would take effect January 1, 2016. The provisions of the bill would apply only to a contract between a health benefit plan issuer or PBM and a pharmacist or pharmacy entered into or renewed on or after that date.

SUPPORTERS SAY:

SB 332 would increase transparency in the method by which a PBM determines which drugs can be reimbursed using a maximum allowable cost formula. Each PBM currently uses the PBM's own formula based on maximum allowable cost to reimburse pharmacies for dispensing generic medications, but there is little transparency as to what the price will be, when the price will change, and which sources can be used to determine the maximum allowable cost prices.

The bill represents a compromise between PBMs and pharmacies on how to address this lack of transparency by creating a process for a pharmacy under contract with a PBM to access the maximum allowable cost list and to appeal the price of a drug.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Regulating carrying handguns on premises of a governmental entity

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 9 ayes — Phillips, Nevárez, Burns, Dale, Johnson, Metcalf, Moody, M. White, Wray

0 nays

SENATE VOTE: On final passage, March 18 — 26-5 (Ellis, Garcia, Rodríguez, Watson, Whitmire)

WITNESSES: (*On House companion bill, HB 226*)
For — A.J. Louderback, Sheriffs' Association of Texas; Alice Tripp, Texas State Rifle Association; Terry Holcomb, Texas Carry; Judd Earley; (*Registered, but did not testify:* William Travis, Sheriffs' Association of Texas; Gina Holcomb, Texas Carry)

Against — John Dahill, Texas Conference of Urban Counties; (*Registered, but did not testify:* Mark Mendez, Tarrant County Commissioners Court; Conrad John, Travis County Commissioners Court)

On — (*Registered, but did not testify:* Amanda Crawford, Office of Attorney General; Sherrie Zgabay and Oscar Ybarra, Texas Department of Public Safety)

BACKGROUND: Penal Code, sec. 30.06 prohibits concealed handgun license holders from carrying a handgun on another's property without effective consent. This provision does not apply if the property on which a license holder is carrying a handgun is owned or leased by a governmental entity and the premises is not one on which the license holder is prohibited from carrying a handgun by Penal Code, secs. 46.03 and 46.035.

Penal Code, sec. 46.03 prohibits individuals from carrying weapons in certain places, including the premises of any government court or offices used by the court.

Penal Code, sec. 46.035 prohibits a license holder from carrying a handgun openly or in certain places, such as the premises of an establishment that derives 51 percent or more of its business from alcohol sales, even if open to the public.

DIGEST:

SB 273 would prohibit a state agency or political subdivision from posting a sign or similar notice forbidding a concealed handgun license holder from carrying a handgun on a premises owned or leased by the governmental entity unless the license holder was prohibited from carrying a weapon on the premises under Penal Code, secs. 46.03 or 46.035.

The bill would make state agencies and political subdivisions that violated this section liable for civil penalties ranging from:

- $1,000 up to $1,500 for the first violation; and
- $10,000 up to $10,500 for a second or subsequent violation.

Each day of a continuing violation of improper notice would constitute a separate violation. The bill would require that the civil penalty collected by the attorney general be deposited to the credit of the compensation to victims of crime fund.

A citizen of Texas or a person licensed to carry a concealed handgun could file a complaint with the attorney general that a state agency or political subdivision was in violation of this bill if the citizen or licensee provided the agency or subdivision with written notice describing the violation and the specific location of the sign and if the agency or subdivision did not correct the violation within three business days after receiving the notice.

Before a suit could be brought against a state agency or political subdivision for a violation, the attorney general would be required to investigate the complaint to determine whether legal action was warranted. If so, the attorney general would have to give the chief administrative officer of the agency or subdivision a written notice that:

- described the violation and the specific location of the sign;
- stated the amount of the proposed penalty; and
- gave the agency or subdivision 15 days to remove the sign and cure the violation to avoid the penalty.

If the attorney general found that legal action was necessary and the agency or subdivision did not cure the violation within the 15-day period, the attorney general or the appropriate county or district attorney could sue to collect the civil penalty. The attorney general also could file a petition seeking equitable relief and would be able to recover certain reasonable expenses incurred in the case.

A suit for improperly prohibiting the carrying of concealed weapons could be filed in a district court in Travis County or in a county where the principal office of the state agency or subdivision was located. Sovereign immunity to suit would be waived and abolished to the extent of liability created by the bill.

The bill also would establish that a license holder committed an offense if a license holder carried a handgun in the room where a meeting of a governmental entity was held if it was an open meeting and the entity provided notice as required for open meetings.

The bill would take effect September 1, 2015, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

SB 273 would reduce confusion among law-abiding licensed concealed handgun holders as to where they were allowed to carry their handguns. Improper posting of signs prevents license holders from carrying their handguns in places where they otherwise would be allowed to carry and may result in license holders being wrongfully subjected to criminal penalties for lawful actions. The bill would address this problem by creating a civil penalty for the wrongful posting of "no carry" signs.

This bill would remove the burden on licensed handgun holders who are trying to comply with the law while facing confusing and improperly posted signs. Students earning a concealed handgun license learn in the classroom where the carrying of handguns is prohibited, but many times

improperly posted signs are inconsistent with what students learn.

The bill appropriately would enforce rights of concealed handgun license holders. Signs prohibiting the carrying of guns are being posted in places where license holders are allowed to carry, without the governmental entity being penalized for the mistake. If license holders are penalized for carrying handguns in places where they are not allowed to carry, governmental entities should similarly be penalized for prohibiting the carrying of handguns where it is allowed under law.

The bill would impose a reasonable civil penalty on governmental entities for violations, allowing the entity 15 days to cure any violation and avoid fines. This would be ample time for an entity acting in good faith to avoid a lawsuit.

The bill would not impose civil penalties for the posting of "no carry" signs on a premises where the carrying of handguns already is prohibited, such as a hospital. The exemption of carrying handguns on certain prohibited premises would still apply, regardless of whether government meetings were taking place there. Furthermore, for any facility or government premises that was not clearly defined as an area where the carrying of handguns would be prohibited at all times but may be prohibited on some occasions, the bill would provide for a three-day cure period to allow the entity to post a sign when carrying a handgun would be prohibited under the law, and take the sign down within three days of the end of the occasion or event.

The bill would not dictate where buildings with multiple functions could check for weapons or have metal detectors posted. It would penalize entities only for improperly posted signs. SB 273 also would not dictate where license holders were allowed to carry or were prohibited from carrying their handguns. This regulation would be outside the scope of the bill, which would deal only with the wrongful posting of "no carry" signs.

OPPONENTS SAY:

SB 273 could be difficult and costly to implement when there were multiple government meetings in a building in which handguns were otherwise allowed. This circumstance would require the placement of metal detectors at the door to each meeting instead of locating the metal

detector and handgun monitoring at the building's entrance. While the latter option would be the most sensible and cost-effective approach, it might be precluded by the bill.

The bill should not apply to teaching hospitals, which should maintain the authority to regulate handgun possession on their premises. This bill could prevent certain hospitals from being able to prohibit the carrying of handguns without worrying about paying hefty civil penalties. For instance, at some hospitals, such as MD Anderson, there is not a clear definition of whether the premises would be considered a state teaching facility or a hospital.

NOTES: The House companion bill, HB 226 by Guillen, was placed on May 12 General State Calendar, but was not considered.

SUBJECT: Regulating the transportation of a person with a mental illness

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Raymond, Rose, Keough, Naishtat, Peña, Price, Spitzer

0 nays

2 absent — S. King, Klick

SENATE VOTE: On final passage, April 30 — 31-0 on local and uncontested calendar

WITNESSES: For — Kathryn Lewis, Disability Rights Texas; (*Registered, but did not testify*: Jolene Sanders, Easter Seals Central Texas; Cate Graziani, Mental Health America of Texas; Greg Hansch, National Alliance on Mental Illness-Texas; Will Francis, National Association of Social Workers-Texas Chapter; Carole Smith, Private Providers Association of Texas; Lee Johnson, Texas Council of Community Centers; Mark Hanna, Texas Society For Clinical Social Work)

Against — AJ Louderback and Gerald Yezak, Sheriffs' Association of Texas; (*Registered, but did not testify*: Roy Boyd, R. Glenn Smith, and Micah Harmon, Sheriffs' Association of Texas)

On — (*Registered, but did not testify*: Kerry Raymond, Department of State Health Services)

BACKGROUND: Health and Safety Code, sec. 574.045 establishes the requirements for the transportation of a mental health patient. Sec. 574.045(g) provides that the patient cannot be physically restrained unless necessary to protect the safety of the patient or the attendant. If the treating physician or attendant determine that physical restraint is necessary, that person must document the reason and length of time for which the restraints are needed. Upon arrival at the facility, the attendant must deliver the document to the facility, and the document must be included in the patient's clinical record.

DIGEST:

SB 1129 would specify that a mental health patient restrained under Health and Safety Code, sec. 574.045(g) could be restrained only during the patient's apprehension, detention, or transportation. The bill would require that the method of restraint allow the patient to sit in an upright position without undue difficulty unless the patient was being transported by ambulance.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

SB 1129 would increase the safety of mental health patients being transported by prohibiting the use of prone and supine restraints. Law enforcement officers receive restraint training for persons under emergency detention, but current law does not prohibit techniques that severely limit mobility and could threaten a patient's health.

While restraints are sometimes needed during transport, they should be used only when absolutely necessary and should still allow a person to sit upright. Not allowing a person to sit upright while the person is being transported could increase the risks of respiratory and cardiac problems for some individuals.

Mental health care facilities already use the same best practices for restraining a person that this bill would establish for apprehending, detaining, and transporting mental health patients. Specifying the manner in which a person could be restrained also could decrease liability for transporters, and the bill would not create any independent cause of action.

The bill would not create any undue burden for law enforcement because law enforcement organizations have stated that they do not utilize the types of inappropriate restraint practices that would be prohibited by this bill. Establishing those restrictions in statute would ensure that those practices were not used.

The bill would not outlaw or prohibit the use of restraints when transporting mental health patients, so law enforcement and other

transporters would continue to have discretion in using restraints as long as they met the modest requirements of the bill. SB 1129 also would not require law enforcement organizations to modify their vehicles in any way, so it would not impose any cost on those agencies.

OPPONENTS SAY:

SB 1129 could create an untenable situation for law enforcement officers transporting mental health patients. The proposed requirement that a patient be able to sit up without "undue difficulty" during transportation is ambiguous. It is unclear what undue difficulty would mean, and law enforcement could be susceptible to suits for minor violations. The bill also could put mental health patients' safety at risk by limiting the time and manner in which a patient could be restrained, which could result in more injuries during transportation, and thus more litigation.

The bill is unnecessary because it is based on a few isolated incidents in which transporting a mental health patient went wrong elsewhere in the United States. Inappropriately restraining mental health patients in a way that could threaten their health is not a problem in Texas and is not a practice used by sheriffs' departments.

The bill would limit law enforcement officers' flexibility when transporting a mental health patient. Mental health patients can be difficult to control while being transported, and this bill could threaten the safety of law enforcement officers who were transporting an individual and lead to damage to law enforcement vehicles if a person was not adequately restrained.

Currently, law enforcement vehicles are not equipped to safely transport a patient while allowing the patient to sit up at all times. This bill could result in the need to purchase special harnesses or other types of restraints without providing any funding for this purpose.

SUBJECT: Providing for permits for overweight timber trucks and equipment

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Pickett, Martinez, Burkett, Fletcher, Israel, Minjarez, Murr, Paddie, Simmons

0 nays

4 absent — Y. Davis, Harless, McClendon, Phillips

SENATE VOTE: On final passage, April 29 — 31-0

WITNESSES: For — Tim Rodrigues, Texas Logging Council; (*Registered, but did not testify*: Ronald Hufford, Texas Forestry Association; Linda Price, Texas Logging Council; Les Findeisen, Texas Trucking Association)

Against — None

On — (*Registered, but did not testify*: Jimmy Archer, Texas Department of Motor Vehicles; Bill Hale, Texas Department of Transportation)

BACKGROUND: In 2013, the 83rd Legislature enacted HB 2741 by Phillips. Among its provisions, the bill added Transportation Code, ch. 623, subch. Q, which governs vehicles transporting timber. It provides for the issuance of permits authorizing a person to operate an overweight vehicle to transport unrefined timber and associated materials in certain counties on roads owned by the state.

DIGEST: SB 1171 would allow holders of a permit for an overweight timber truck issued under Transportation Code, ch. 623, subch. Q to drive overloaded vehicles on county roads. The bill would specify that these permit holders also were exempt from the weight limits established by the Texas Department of Transportation (TxDOT) on state highways, farm roads, and ranch roads. The bill would decrease the price of this permit from $1,500 to $900.

This bill also would exempt certain equipment used in the harvesting and production of timber from the width restriction on vehicles in Transportation Code, sec. 621.201, subject to specific conditions.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

SB 1171 would correct an oversight in the drafting of previous law that has made industry less efficient. HB 2741 unintentionally did not include provisions that would apply the permit it created to county roads. Because most timber trucks must travel on county roads in rural areas, the current permit has little effect. It was estimated that the industry would purchase around 1,000 permits, but only about 40 were issued in the last year. This represents significant lost revenue that otherwise would go to the state highway fund and the counties where the permit would be valid.

This bill would not result in additional damage to road surfaces. In fact, it could result in a reduction of wear on roads because trucks would be making fewer trips. Any damage that did occur could be made up for by the additional revenue generated by the permit, 50 percent of which would be directed to the counties in which the permit is valid.

OPPONENTS SAY:

SB 1171 would increase the number of overweight trucks on county roads, which could cause damage to road surfaces and pavement. Overweight trucks cause significantly more damage than normal vehicle traffic.

SUBJECT: Permissible locations of charter schools created by certain universities

COMMITTEE: Public Education — favorable, without amendment

VOTE: 8 ayes — Aycock, Allen, Bohac, Deshotel, Dutton, Galindo, Huberty, K. King

1 nay — VanDeaver

2 absent — Farney, González

SENATE VOTE: On final passage, April 30 — 30-1 (Nichols)

WITNESSES: (*On House companion bill, HB 2017*)
For — Lonnie Hutson; (*Registered, but did not testify*: Nelson Salinas, Texas Association of Business; David Fincher)

Against — (*Registered, but did not testify*: Monty Exter, The Association of Texas Professional Educators)

BACKGROUND: Education Code, sec. 12.152 authorizes certain colleges and universities to apply for an open-enrollment charter school to operate on their campuses or in the same county in which their campuses are located.

DIGEST: SB 955 would allow a public senior college or university to apply for an open-enrollment charter school to operate in any county in Texas.

In evaluating an application for a charter outside the campus or county where the college or university was located, the commissioner of education would be required to consider:

- the locations of existing open-enrollment charter schools, as appropriate, to avoid duplication of services in the area in which the applicant proposed to operate the school; and
- the need of the community in that area to have an additional charter school.

The bill would apply to an application for a new charter pending on or submitted on or after the effective date of the bill. A college or university holding a charter granted before the effective date would need to obtain the commissioner of education's approval to operate a charter school in another county.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

SB 955 would expand the authorization for a college or university to operate an open-enrollment charter school outside the county where the college or university was located. Some universities with a large number of education majors would like the opportunity to operate charter schools in different locations to provide student teachers with meaningful field experiences in diverse educational settings. The bill also could allow a university located in a less populated county to help meet demand for charter schools in more populous counties.

OPPONENTS SAY:

SB 955 would allow a university to operate a charter school far from the university's home campus. This could create a situation in which the university lacked sufficient faculty support and other resources needed to effectively operate the remotely located charter school. It would be better to limit universities to operating charters in counties that were contiguous to the higher education campuses or to partner with a school district in the desired location.

NOTES:

The House companion bill, HB 2017 by R. Miller, was considered in a public hearing of the House Committee on Public Education on April 28 and was left pending.

SUBJECT: Amending requirements for the Hazlewood tuition exemption for veterans

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 5 ayes — Zerwas, Alonzo, Clardy, Crownover, Morrison

1 nay — C. Turner

3 absent — Howard, Martinez, Raney

SENATE VOTE: On final passage, May 5 — 24-7 (Ellis, Garcia, Lucio, Menéndez, Rodríguez, Uresti, Zaffirini)

WITNESSES: (*On House companion bill, HB 3572*)
For — Ray Lindner, National Guard Association of Texas; (*Registered, but did not testify:* Steven Johnson, Texas Association of Community Colleges)

Against — None

On — Eugene Bourgeois, Texas State University; Jim Brennan, Texas Coalition of Veterans Organizations; Rufus Coburn, Texas Veterans Commission; Demetrio Hernandez and Emily Hoffman, Legislative Budget Board; Joseph Pettibon, Texas A&M University; Ricardo Romo, the University of Texas at San Antonio; Brantley Starr, Office of the Attorney General; Steven Tallant, Texas A&M University Kingsville; (*Registered, but did not testify:* Lisa Blazer, the University of Texas at San Antonio; Susan Brown and Connie Cooper, Texas Higher Education Coordinating Board; John A Miterko, Texas Coalition of Veterans Organizations; Brian Sunshine, Central Texas College; Jason Thurlkill, Legislative Budget Board; Zenobia Joseph)

BACKGROUND: Education Code, sec. 54.341 requires the governing board of each institution of higher education in the state to exempt certain veterans, as specified in current law, from the payment of tuition, dues, fees, and other required charges.

The person seeking the exemption, commonly known as the Hazlewood exemption, must currently reside in Texas and must have entered the service at a location in this state, declared this state as the person's home of record, or would have been determined to be a resident of this state at the time the person entered service. A person may not receive this exemption for more than a cumulative total of 150 credit hours.

In 2009, the 81st Legislature passed SB 93 by Van de Putte, which expanded the Hazlewood exemption to include certain spouses and dependents of veterans. The bill established the Hazlewood Legacy Program, under which individuals eligible for the Hazlewood exemption may assign any unused portion of credit hours to their child. The bill also allowed spouses and children of certain military members who were killed, missing, or disabled during service to qualify for the exemption.

Higher education institutions absorb most of the costs for the Hazlewood exemption. The 83rd Legislature, through the enactment of HB 1025 by Pitts, appropriated $30 million in general revenue to be distributed amongst the state's institutions for foregone tuition tied to the Hazlewood Legacy Program. SB 1158 by Van de Putte, also passed during the 83rd session, created the Permanent Fund Supporting Military and Veterans Exemptions, the proceeds of which are used to offset foregone tuition revenue for the legacy program. According to a 2014 report on the Hazlewood exemption by the Legislative Budget Board, $11.4 million was released from the fund in 2014 to reimburse institutions proportionally for tuition and fee revenues waived that year for legacy recipients.

DIGEST:

CSSB 1735 would change certain eligibility and other requirements for veterans and their dependents to receive the Hazlewood tuition and fee exemption at the state's public institutions of higher education.

The bill would specify that certain veterans would be eligible for the exemption provided that they:

- established and continuously maintained a domicile in this state at least one year before the academic term in which the person was enrolled in a higher education institution; and

- were born in or resided in Texas continuously for the eight years immediately preceding the first class date of the academic term to which the exemption would apply.

These criteria also would apply to spouses or children of certain military members who were killed, missing, or disabled during their service, as well as children seeking to use parents' unused credit hours as part of the Hazlewood Legacy Program.

Individuals otherwise eligible for the Hazlewood exemption, including children whose parents assigned unused credits to them through the legacy program, could not receive the exemption for an academic term that began 15 years after the individual's or parent's honorable discharge from active military duty. This provision would not apply to spouses or children of certain military members who were killed, missing, or disabled during their service or to those whose continued eligibility for the exemption was protected by current law or would be protected by the bill.

The exemption would not apply to individuals who, at the time of registration, were entitled to receive state or federal grant aid or federal benefits that could be used to pay tuition and fees if the value of the grant aid received in an academic term was equal to or exceeded the value of the exemption for that term. If the value of state or federal grant aid or federal benefits did not equal or exceed the value of the exemption for that term, the person would be entitled to receive both the grant aid and the exemption. The bill would specify that a higher education institution could not require a person eligible for the Hazlewood exemption to apply for or obtain a student loan.

CSSB 1735 would provide additional requirements for eligible veterans to assign unused credit hours to their children as part of the legacy program. Before any portion of the Hazlewood exemption could be assigned to a child, veterans eligible for the exemption would need to have served on active military duty, excluding training, for at least six years. In addition, veterans could assign to a child the exemption for up to 60 unused credit hours.

A child assigned the unused credit hours would have to be an

undergraduate student, whereas current law allows parents to pass unused credits to graduate or undergraduate students. The child also would have to:

- maintain a course load of at least 24 semester credit hours per academic year;
- sustain a cumulative GPA of at least 2.5; and
- be 25 years old or younger on the first class date of the academic term for which the exemption was claimed.

Higher education institutions would have to require a child receiving an exemption to complete a Free Application for Federal Student Aid (FAFSA). Institutions could not use the information on a individuals' FAFSA to encourage or require them to obtain a student loan but could make them aware of grant opportunities.

A person who received the Hazlewood exemption for an academic term before the spring 2016 semester would continue to be eligible for the exemption as the law existed on January 1, 2015.

The subsection of this bill that would require a person to have been born in or to have resided in Texas continuously for the eight years immediately preceding the first class date of the academic term the exemption is used would apply beginning with tuition and fees charged for the first academic semester beginning on or after the bill's effective date. The remaining provisions of the bill would apply beginning with tuition and fees charged for the 2016 spring semester.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

CSSB 1735 would sufficiently contain the Hazlewood tuition and fee exemption at public institutions of higher education for certain veterans and their dependents to ensure the program did not become too costly to maintain. The burden placed on state institutions to continue providing benefits under Hazlewood increases every year, and the program is unsustainable at current growth rates. Any trust fund interest earned to

assist the funding of Hazlewood is not nearly enough to continue the program without significant amendments.

The bill would address a recent federal court ruling in January 2015 that held unconstitutional the requirement that veterans must enter into service in Texas in order to qualify for benefits. Amending the program now to address this issue would ensure that the program was in full compliance with the law and was not extended to cover all veterans regardless of their state of residence. The bill also would ensure compliance with the program's intent by requiring those eligible for Hazlewood that were not born in Texas to be residents of the state for eight years preceding their first class date.

The bill appropriately would contain the Hazlewood Legacy Program while still maintaining significant benefits for dependents. The Legislative Budget Board's 2014 report on the Hazlewood exemption projects the majority of the growth to occur through the Legacy Program. The bill would implement one of the LBB's suggestions to contain the legacy program by limiting the number of unused semester credit hours available for transfer to children to a more manageable 60 hours. The bill also would restrict the benefits to being used only for undergraduate degrees.

Reducing benefits under CSSB 1735 would not prevent veterans and their families from receiving many of the benefits they currently receive under Hazlewood because the federal government provides many of the same benefits. For example, younger veterans who served after 9/11 receive the Post-9/11 GI Bill benefits. These benefits include coverage of 150 credit hours and the ability to transfer these credit hours to family members. Veterans and their families should take full advantage of existing federal benefits, including filling out federal financial aid forms, before turning to the Hazlewood exemption.

Fully funding the program to lessen the burden on state universities also would not be sustainable. Turning Hazlewood into a state appropriation would require the program's beneficiaries to lobby for funding every two years. However, continuing to place such a significant burden on Texas universities also harms students who are not military or military dependents because they pay increased tuition and fees so universities can

afford the costs of Hazlewood benefits, particularly those associated with the legacy program.

OPPONENTS SAY:

CSSB 1735 would break the promises the Legislature made to veterans and their families with the Hazlewood program and the legacy portion of the program by limiting it so much that it may no longer fulfill its intended purpose. The state should not discriminate between Texas veterans who have honorably served and should continue to provide educational benefits under Hazlewood for military veterans and their spouses and dependents.

The bill would prevent many dependents of veterans from taking advantage of Hazlewood benefits because it would require that benefits be used within 15 years of a veteran's discharge from the military. This limitation would allow the use of Hazlewood benefits only to children that the military member had before his or her discharge from the military. Children born to veterans during or immediately following their discharge from the military would not reach college age in time to use the benefits. Because all benefits end on the 15th anniversary of a veteran's discharge, a child must enter college a minimum of 11 years after the discharge to complete a four-year degree using the Hazlewood's exemption.

The bill also would limit the legacy provision to 60 total credit hours, thereby affecting a student's chances of graduating with a four-year degree if that student was left without benefits after only two years of higher education. This limitation disproportionately would affect lower income families using Hazlewood to send their children to college.

The bill would disqualify a majority of young veterans from receiving Hazlewood benefits by significantly increasing the amount of service required to be eligible for benefits from 180 days of service to six years. The state should not discriminate against veterans who served for less time or were medically discharged before six years of service. A regular four-year contract in the military could include two to three overseas deployments. All veterans who have honorably served, especially those who have been deployed in active combat, should receive the benefits promised by the Hazlewood Act.

The bill would cut benefits for veterans during a time when the state has the revenue to invest more. It is a misconception that the state does not have the funds to afford the continuation of Hazlewood. Since 2013, a trust fund authorized for Hazlewood yielded a profit that could aid in funding the program during fiscal 2016-17. The state should be investing in veterans at a time when the state has money to do so.

NOTES:

The House companion bill, HB 3572 by Zerwas, was reported favorably from the House Higher Education Committee on May 1 and sent to the Calendars Committee on May 5.

CSSB 1735 differs from the Senate engrossed version in several ways. Among other differences, the House substitute would:

- remove the requirement that an individual enter the service at a location in the state or declare the state as the person's home of record;
- change from the spring semester of 2017 to the spring semester of 2016 the time before which a person who received an exemption would continue to be eligible to receive an exemption as it existed on January 1, 2015;
- limit the amount of credit hours for which the exemption could be assigned to legacies to 60 hours;
- remove the provision that would allow an individual to be eligible for the exemption if they served on active service in the Texas National Guard or U.S. reserve forces; and
- require students to have established and maintained a domicile in Texas for the last year and satisfy the residency requirement of residing in Texas continuously for the last eight years to be eligible for the exemption, except for those born in Texas.

SUBJECT: Amending certain obligations of and limitations on landlords

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 6 ayes — Oliveira, Simmons, Collier, Rinaldi, Romero, Villalba

0 nays

1 absent — Fletcher

SENATE VOTE: On final passage, May 5 — 29-2 (Hall, V. Taylor)

WITNESSES: For — David Mintz, Texas Apartment Association; Sandy Rollins, Texas Tenants Union

Against — None

DIGEST: CSSB 1367 would make various changes to Property Code, ch. 92, affecting the responsibilities of landlords and tenants and communications between the two parties.

Under current law, a landlord may give notice to vacate to a tenant by affixing the notice to the outside of the tenant's front door under certain circumstances. The bill would require a landlord who gave notice in such a manner also to mail a copy of the notice to the tenant.

The bill would amend the penalties for which a landlord was liable if the landlord willfully violated the law on collection of rent. The landlord would be liable for $1,000 in addition to one month's rent, less any amount for which the tenant was liable.

A notice given by a tenant to trigger the liability of a landlord with regard to the need for repair on the property could be delivered by a form of mail that allowed tracking of delivery from the U.S. Postal Service or a private delivery service, rather than only certified mail, return receipt requested, or registered mail.

If a tenant had not been required to pay a security deposit, a landlord

would be required to notify the tenant in writing of any claim for damages or charges on or before the landlord reported the claim to a consumer reporting agency or a third-party debt collector. If the landlord did not notify the tenant before reporting the claim, the landlord would forfeit the right to collect damages and charges from the tenant. The notice would not be required if the tenant had not left a forwarding address.

CSSB 1367 also would:

- stipulate that a tenant's right to a jury trial in an action brought under Property Code, ch. 92 could not be waived in a lease or other written agreement;
- require a landlord to install a handle latch, rather than a pin lock, on a sliding door at the request and expense of the tenant;
- change the circumstances for a landlord's defense to liability if a tenant who had not fully paid all rent requested the installation of a security device that otherwise is required to be installed without request at the landlord's expense; and
- specify, if a rental property changed ownership, that the new owner was liable for the tenant's security deposit and responsible for delivering a statement to that effect specifying the exact amount of the deposit.

The bill would take effect January 1, 2016.

SUPPORTERS SAY:

CSSB 1367 would help increase transparency and communication between landlords and tenants. The bill would not cost any taxpayer money to implement and would reduce the potential for miscommunication between landlords and tenants that could cost either or both parties time and money.

The bill would include provisions to ensure the safety of residents, provide awareness about tenant rights and landlord responsibilities, and clarify the procedures for providing notice to vacate to a tenant. The notice requirements for tenants who did not pay a security deposit also would help tenants know when a debt was about to go into collections rather than learn about it afterward. The bill would strike the right balance between the needs of landlords and tenants and ensure that Texas's laws

aligned with modern leasing practices.

OPPONENTS SAY:

CSSB 1367 is unnecessary and would create another layer of regulation in an already highly regulated industry. Many parts of the bill might be beneficial, but other sections, such as the provision that would have landlords forfeit their right to collect damages if the landlord improperly notified the tenant of charges, would be too punitive.

NOTES:

CSSB 1367 differs from the engrossed Senate version in that the committee substitute would:

- revise the procedures by which notice to vacate could be provided;
- specify that a tenant could not waive the right to a jury trial in a lease or other written agreement; and
- revise requirements for the types of locks a landlord could be required to install and change the circumstances of a landlord's defense to liability with regard to the installation of a security device.

SUBJECT: Requiring tracking system for medical school graduates

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 7 ayes — Zerwas, Howard, Alonzo, Crownover, Martinez, Morrison, C. Turner

0 nays

2 absent — Clardy, Raney

SENATE VOTE: On final passage, April 23 — 30-0

WITNESSES: (*On House companion, HB 99*)
For — Blair Cushing, Texas Academy of Family Physicians; (*Registered, but did not testify*: Joel Ballew, Texas Health Resources; Jennifer Banda, Texas Hospital Association; Marshall Kenderdine, Texas Academy of Family Physicians; Nelson Salinas, Texas Association of Business; Justin Yancy, Texas Business Leadership Council)

Against — None

On — (*Registered, but did not testify*: Stacey Silverman, Texas Higher Education Coordinating Board)

DIGEST: SB 295 would require the Texas Higher Education Coordinating Board to establish and maintain a data system to track initial medical residency program choices made by Texas medical school graduates and the initial practice choices of those completing residency programs in the state.

The system established by the bill would track any data reasonably available to the coordinating board, including data maintained by or accessible to medical schools or residency programs in Texas. For doctors who completed a residency program in the state, the tracking system would be required to collect certain relevant information on these doctors for the two-year period following completion of their residency programs, including:

- whether and for how long these doctors worked in primary care in Texas and which medical specialties they reported as their primary medical practice; and
- the locations of the practices established by these doctors.

The coordinating board would adopt rules to establish the tracking system by January 1, 2016.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

SB 295 would improve the state's ability to invest effectively in medical education and training. While medical schools and residency programs track their own data on residency and job placement outcomes, the state currently lacks such a system. Tracking this information could help inform the state as to whether its investments in medical education and training have been effective.

Some data indicate that the state's investments in medical education and training have not resulted in desired outcomes. Many Texas-educated medical students must leave the state to do their residencies. In addition, many who complete residencies in Texas either do not work in primary care or do not work in locations with a critical shortage of primary care doctors, such as in rural areas. Under SB 295, the Texas Higher Education Coordinating Board would collect and centralize that information, enabling the state to track the supply, demand, and distribution of physicians. The bill also could help the state study funding outcomes for medical education so that it could better craft policies to address certain physician shortages and better invest state funds.

OPPONENTS SAY:

While SB 295 would offer a helpful solution to inequities in physician distribution across the state, the bill should track outcomes for five years, rather than two, after a doctor completed residency to get a more accurate picture of medical and geographic practice areas. National data indicate that many initial job placements after residency are temporary. Doctors may take their first jobs for certain reasons only to move on within a few years one they have repaid a loan or to practice a different type of medicine.

NOTES: The House companion, HB 99 by Guillen, was placed on the General State Calendar for May 13 but was not considered.

SUBJECT: Revising setback requirements for junkyards, wrecking and salvage yards

COMMITTEE: Transportation — committee substitute recommended

VOTE: 9 ayes — Pickett, Martinez, Burkett, Fletcher, Israel, Minjarez, Paddie, Phillips, Simmons

2 nays — Harless, Murr

2 absent — Y. Davis, McClendon

SENATE VOTE: On final passage, May 4 — 20-11 (Birdwell, Burton, Hall, Hancock, Huffines, Nelson, Nichols, Perry, Schwertner, Seliger, V. Taylor)

WITNESSES: (*On House companion bill, HB 2044*)
For — Rhonda Tiffin, Webb County Commissioners Court

Against — None

BACKGROUND: Transportation Code, ch. 396 establishes requirements for automobile wrecking and salvage yards. Sec. 396.022(a) restricts the location of the entities and prohibits junkyards and automotive wrecking and salvage yards from being located within 50 feet of the right-of-way of a public street, state highway, or residence.

DIGEST: CSSB 1436 would amend the setback restriction applied to junkyards and automotive wrecking and salvage yards and residences so that the yards could not be within 50 feet of the nearest property line of a residence.

The bill would take effect September 1, 2015, and would apply only to junkyards and automotive wrecking and salvage yards that began operating on or after that date.

SUPPORTERS SAY: CSSB 1436 would clarify the measuring point for the setback requirement for junkyards and automotive wrecking and salvage yards so that both residents and businesses were treated fairly. The bill also would protect the health and safety of those living near these businesses.

Current law prohibits junkyards and automobile wrecking and salvage yards from being within 50 feet of a residence, a reference point that can move. For example, a house could burn down and be rebuilt in a different place or a house could be built on previously unoccupied land. Questions also can arise about whether the setback should be measured from the main building or an auxiliary building of a private residence. These situations could result in varying reference points being applied to different businesses and could require some businesses to move to meet the requirements. Some situations could result in a junkyard or automobile wrecking and salvage yard being closer to a residence than some may feel is appropriate, which could raise health and safety concerns.

The bill would address these issues by establishing a fair reference point that could be accurately applied in all situations and would facilitate the coexistence of residences with junkyards or automotive wrecking and salvage yards. The bill would ensure that there would be an appropriate setback from all residences to protect the health and safety of those who live on property adjacent to these entities. The bill would mirror the existing requirement that a setback be at least 50 feet from a public street or state highway right-of-way.

The bill would not create new regulations for these businesses. A setback requirement in these situations already exists, and the bill merely would adjust it. The adjustment in the bill would be fair to existing facilities as it would apply only to junkyards and automotive wrecking and salvage yards that began operations after the bill's effective date.

OPPONENTS SAY:

Current law establishes effective setbacks of junkyards and automotive wrecking and salvage yards from residences. Moving the reference point to the property line could result in unreasonable restrictions on private businesses. For example, a residence itself could be built far from a property line or a piece of property could be undeveloped.

NOTES:

The House companion bill, HB 2044 by Raymond, was considered in a public hearing of the House Transportation Committee on April 16 and left pending.